

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:20-CV-38-BO

TIMOTHY D. BEST,

Plaintiff,

v.

VILLAGE OF ELLENVILLE AND
ELLENVILLE JUSTICE COURT;
ULSTER COUNTY AND
ULSTER COUNTY JAIL AND THEIR
EMPLOYEE; CONTRACTOR PRIME
CARE MEDICAL OF NEW YORK, INC.
AND THEIR EMPLOYEE,

Defendants.

ORDER

This cause comes before the Court on the memorandum and recommendation of United States Magistrate Judge Robert T. Numbers, II allowing plaintiff to proceed without prepayment of fees and recommending that this action be dismissed. [DE 6]. No objections to the memorandum and recommendation have been filed. For the reasons that follow, the memorandum and recommendation (M&R) is ADOPTED and this action is DISMISSED.

BACKGROUND

Plaintiff, who proceeds in this action *pro se*, alleges in his complaint that from September 5, 2019, to February 11, 2020, he was unlawfully incarcerated and subjected to cruel and unusual punishment. Plaintiff alleges that he did not waive his right to counsel at his arraignment nor was he asked if he wanted to adjourn his case so that he could have counsel present. Plaintiff alleges that while incarcerated at the Ulster County Jail he was diagnosed with an ear infection by defendant Prime Care Medical but that he was given the wrong treatment, causing his condition to

worsen. Plaintiff alleges that his Sixth, Eighth, and Fourteenth Amendment rights were violated and seeks \$32,000 in actual damages and \$1,000,000 for pain and suffering.

DISCUSSION


A district court is required to review *de novo* those portions of an M&R to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). “[I]n the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).

Here, plaintiff has not filed any objections to any portion of the M&R. The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Accordingly, the M&R is ADOPTED.

CONCLUSION

The memorandum and recommendation of Magistrate Judge Numbers [DE 6] is ADOPTED and plaintiff’s complaint is DISMISSED. The clerk is DIRECTED to close the case.

SO ORDERED, this 14 day of May, 2020.


TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE